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BANNER & WITCOFF , LTD
ATTORNEYS FOR CLIENT NUMBER 007412
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

EXAMINER	
TAYLOR, JOSHUA D	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/809,729	BLACK, NEVILLE A.	
	Examiner	Art Unit	
	JOSHUA TAYLOR	2426	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 December 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-45* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-45* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-45 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-9, 11, 16-19, 21-24, 26, 31-34, 36-39 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Reisman (Pub. No.: US 2003/0229900).

Regarding claim 1, Reisman discloses **a video-on-demand system for use with personal computers connected to a packet data network** (Fig. 8, elements 220 and 820, paragraph [0296]), **the system comprising: a cable television network** (Fig. 8, elements 210 and 810, paragraph [0296]); **and content provider websites which list videos available for delivery from content providers to subscribers of a cable television service provider** (paragraph [0599]), **wherein the subscribers use the personal computers to communicate with the content provider websites via the packet data network in order to select videos from the content provider websites for delivery to the subscribers** (paragraph [0599]);

wherein the cable television service provider receives the selected videos from the content providers and then delivers the selected videos to televisions of the subscribers via the cable television network for the subscribers to view (paragraph [0600]).

Regarding claim 2, Reisman discloses **the system of claim 1,** as stated above, and further discloses **wherein: the cable television service provider delivers the selected videos by streaming the selected videos to the televisions via the cable television network immediately after the subscribers have selected the video** (paragraph [0550]).

Regarding claim 3, Reisman discloses **the system of claim 1,** as stated above, and further discloses **wherein: the cable television service provider stores the selected videos on a video server for subsequent delivery from the video server to the televisions via the cable television network** (paragraphs [0150], [0261] and [0721]).

Regarding claim 4, Reisman discloses **the system of claim 1,** as stated above, and further discloses **wherein: the cable television service provider delivers the selected videos to recorders associated with the televisions via the cable television network for the subscribers to subsequently view** (paragraph [0261]).

Regarding claim 6, Reisman discloses **the system of claim 1,** as stated above, and further discloses **wherein: the subscribers use the personal computers to browse categories listed in the content provider websites in order to select videos from the content provider websites for delivery to the subscribers** (paragraph [0219]).

Regarding claim 7, Reisman discloses **the system of claim 1,** as stated above, and further discloses **wherein: the subscribers provide identification data to the content providers when selecting videos from the content providers; wherein the content providers provide the**

identification data along with the selected videos to the cable television service provider; and the cable television service provider uses the identification data in order to deliver the selected videos to the televisions via the cable television network (paragraph [0598]).

Regarding claim 8, Reisman discloses **the system of claim 1,** as stated above, and further discloses **wherein: the content providers provide descriptive information identifying the selected videos along with the selected videos to the cable television service provider for use by the cable television service provider** (paragraph [0596]).

Regarding claim 9, Reisman discloses **the system of claim 1,** as stated above, and further discloses **wherein: the cable television service provider bills the subscribers for the selected videos on behalf of the content providers** (paragraph [0601]).

Regarding claim 11, Reisman discloses **the system of claim 1,** as stated above, and further discloses **wherein: the personal computers and the televisions are remote from one another and are in indirect communication with one another via the packet data network and the cable television network** (Fig. 8, paragraphs [0296] and [0599]-[0601]).

Regarding claim 16, Reisman discloses **a video-on-demand system for use with a computing device connected to a packet data network** (Fig. 8, elements 220 and 820, paragraph [0296]), **the system comprising: a cable television network** (Fig. 8, elements 210 and 810, paragraph [0296]); **and a content provider website, wherein the content provider website lists videos available for delivery from a content provider to a subscriber of a cable television service provider** (paragraph [0599]), **wherein the subscriber uses the computing device to communicate with the content provider website via the packet data network in order to select a video from the content provider website for delivery to the subscriber**

(paragraph [0599]); **wherein the cable television service provider receives the selected video from the content provider and then delivers the selected video to a television of the subscriber via the cable television network for the subscriber to view** (paragraph [0600]).

Regarding claim 17, Reisman discloses **the system of claim 16,** as stated above, and further discloses **wherein: the cable television service provider delivers the selected video by streaming the selected video to the television of the subscriber via the cable television network immediately after the subscriber has selected the video** (paragraph [0550]).

Regarding claim 18, Reisman discloses **the system of claim 16,** as stated above, and further discloses **wherein: the cable television service provider stores the selected video on a video server for subsequent delivery from the video server to the television of the subscriber via the cable television network** (paragraphs [0150], [0261] and [0721]).

Regarding claim 19, Reisman discloses **the system of claim 16,** as stated above, and further discloses **wherein: the cable television service provider delivers the selected video to a video recorder associated with the television of the subscriber via the cable television network for the subscriber to subsequently view** (paragraph [0261]).

Regarding claim 21, Reisman discloses **the system of claim 16,** as stated above, and further discloses **wherein: the subscriber uses the computing device to browse categories listed in the content provider website in order to select a video from the content provider website for delivery to the subscriber** (paragraph [0219]).

Regarding claim 22, Reisman discloses **the system of claim 16,** as stated above, and further discloses **wherein: the content provider provides identification data identifying the subscriber along with the selected video to the cable television service provider; wherein**

the cable television service provider uses the identification data in order to deliver the selected video to the television of the subscriber via the cable television network (paragraph [0598]).

Regarding claim 23, Reisman discloses **the system of claim 16,** as stated above, and further discloses **wherein: the content provider provides descriptive information identifying the selected video along with the selected video to the cable television service provider for use by the cable television service provider** (paragraph [0596]).

Regarding claim 24, Reisman discloses **the system of claim 16,** as stated above, and further discloses **wherein: the cable television service provider bills the subscriber for the selected video on behalf of the content provider** (paragraph [0601]).

Regarding claim 26, Reisman discloses **the system of claim 16,** as stated above, and further discloses **wherein: the computing device and the television of the subscriber are remote from one another and are in indirect communication with one another via the packet data network and the cable television network** (Fig. 8, paragraphs [0296] and [0599]-[0601]).

Regarding claim 31, Reisman discloses **a video-on-demand method for use with a computing device connected to a packet data network** (Fig. 8, elements 220 and 820, paragraph [0296]), **and for use with a television associated with a subscriber of a cable television service provider and connected to the cable television service provider via a cable television network** (Fig. 8, elements 210 and 810, paragraph [0296]), **the method comprising: providing a content provider website listing videos available for delivery from a content provider to the subscriber of the cable television service provider** (paragraph [0599]), **the**

videos being available for delivery to the subscriber over the cable television network for viewing on the television (paragraph [0600])**; communicating between the computing device and the content provider website via the packet data network in order to enable the subscriber to select a video from the content provider website for delivery to the subscriber** (paragraph [0599])**; and communicating the selected video from the content provider to the cable television service provider and then to the television via the cable television network** (Fig. 8, paragraphs [0296] and [0599]-[0601])**.**

Regarding claim 32, Reisman discloses **the system of claim 31,** as stated above, and further discloses **wherein: delivering the selected video includes streaming the selected video from the cable television service provider to the television via the cable television network immediately after the subscriber has selected the video** (paragraph [0550])**.**

Regarding claim 33, Reisman discloses **the system of claim 31,** as stated above, and further discloses **further comprising: storing the selected video on a video server of the cable television service provider for subsequent delivery; wherein delivering the selected video includes subsequently delivering the selected video from the video server to the television via the cable television network** (paragraphs [0150], [0261] and [0721])**.**

Regarding claim 34, Reisman discloses **the system of claim 31,** as stated above, and further discloses **wherein: delivering the selected video includes delivering the selected video to a subscriber video recorder associated with the television via the cable television network for the subscriber to subsequently view** (paragraph [0261])**.**

Regarding claim 36, Reisman discloses **the system of claim 31,** as stated above, and further discloses **wherein: the subscriber browsing categories listed in the content provider website in order to select videos from the content provider website** (paragraph [0219]).

Regarding claim 37, Reisman discloses **the system of claim 31,** as stated above, and further discloses **wherein: communicating the selected video from the content provider to the cable television service provider includes communicating identification data identifying the subscriber along with the selected video from the content provider to the cable television service provider; wherein delivering the selected video includes using the identification data in order to deliver the selected video to the television via the cable television network** (paragraph [0598]).

Regarding claim 38, Reisman discloses **the system of claim 31,** as stated above, and further discloses **further comprising: the content provider providing descriptive information identifying the selected video along with the selected video to the cable television service provider for use by the cable television service provider** (paragraph [0596]).

Regarding claim 39, Reisman discloses **the system of claim 31,** as stated above, and further discloses **further comprising: the cable television service provider billing the subscriber for the selected video on behalf of the content provider** (paragraph [0601]).

Regarding claim 41, Reisman discloses **the system of claim 31,** as stated above, and further discloses **wherein: the computing device and the television are remote from one another and are in indirect communication with one another via the packet data network and the cable television network** (Fig. 8, paragraphs [0296] and [0599]-[0601]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 5, 20, and 35 rejected under 35 U.S.C. 103(a) as being unpatentable over Reisman (Pub. No.: US 2003/0229900) in view of McGee III et al. (Pub. No.: US 2002/0104088).

Regarding claim 5, Reisman discloses **the system of claim 1,** but does not disclose **wherein: the subscribers perform key word searches using the personal computers in order to select videos from the content provider websites for delivery to the subscribers.** However, in analogous art, McGee III discloses that key word searches may be used to help internet users search for content on a web site (paragraphs [0025] and [0028]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include key word searches when browsing for videos on line. This would have produced predictable and desirable results, as key word searches can reduce the time it takes a viewer to find the content for which they are looking.

Regarding claim 20, Reisman discloses **the system of claim 16,** but does not disclose **wherein: the subscriber performs a key word search using the computing device in order to select a video from the content provider website for delivery to the subscriber.** However, in analogous art, McGee III discloses that key word searches may be used to help internet users search for content on a web site (paragraphs [0025] and [0028]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include key word searches when browsing for videos on line. This would have produced predictable and desirable results, as key word searches can reduce the time it takes a viewer to find the content for which they are looking.

Regarding claim 35, Reisman discloses **the method of claim 31,** but does not disclose **wherein: the subscriber performing a key word search in order to select a video from the content provider website.** However, in analogous art, McGee III discloses that key word searches may be used to help internet users search for content on a web site (paragraphs [0025] and [0028]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include key word searches when browsing for videos on line. This would have produced predictable and desirable results, as key word searches can reduce the time it takes a viewer to find the content for which they are looking.

Claims 10, 25 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reisman (Pub. No.: US 2003/0229900) in view of Babu et al. (Pub. No.: US 2003/0229898).

Regarding claim 10, Reisman discloses **the system of claim 1,** but does not explicitly disclose **wherein: the subscribers have subscriptions with the cable television service provider to select videos from the content provider websites for delivery to the subscribers, wherein the cable television service provider bills the subscribers for the subscriptions.** However, in analogous art, Babu discloses that packages and discounts may include offers involving multiple media content instances (paragraphs [0022]-[0024]), and that billing data associated with the viewer can be distributed to the appropriate VOD vendors (paragraph [0026]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Reisman to include offering subscription packages to viewers. This would have produced predictable and desirable results, in that users would have more options to purchase programming, which could increase the amount of programming purchased.

Regarding claim 25, Reisman discloses **the system of claim 16,** but does not explicitly disclose **wherein: the subscriber has a subscription with the cable television service provider to select videos from the content provider website for delivery to the subscriber, wherein the cable television service provider bills the subscriber for the subscription.** However, in analogous art, Babu discloses that packages and discounts may include offers involving multiple media content instances (paragraphs [0022]-[0024]), and that billing data associated with the viewer can be distributed to the appropriate VOD vendors (paragraph [0026]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Reisman to include offering subscription packages to viewers. This

would have produced predictable and desirable results, in that users would have more options to purchase programming, which could increase the amount of programming purchased.

Regarding claim 40, Reisman discloses **the method of claim 31,** but does not explicitly disclose **further comprising: the subscriber obtaining a subscription with the cable television service provider to select videos from the content provider website for delivery to the subscriber; and the cable television service provider billing the subscriber for the subscription.** However, in analogous art, Babu discloses that packages and discounts may include offers involving multiple media content instances (paragraphs [0022]-[0024]), and that billing data associated with the viewer can be distributed to the appropriate VOD vendors (paragraph [0026]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Reisman to include offering subscription packages to viewers. This would have produced predictable and desirable results, in that users would have more options to purchase programming, which could increase the amount of programming purchased.

Claims 12-15, 27-30, and 42-45 rejected under 35 U.S.C. 103(a) as being unpatentable over Reisman (Pub. No.: US 2003/0229900) in view of Wilson (Pub. No.: US 2005/0027593) and Igarashi (Pub. No.: US 2003/0004940).

Regarding claim 12, Reisman discloses **the system of claim 1,** and also discloses **wherein the content providers communicate information to the cable television service provider regarding videos available for delivery from the content providers to the**

subscribers (paragraphs [0599]-[0600]), but does not explicitly disclose **further comprising: a cable television service provider website, wherein the subscribers use the personal computers to register video interest profiles on the cable television service provider website.** However, in analogous art Wilson discloses cable television service provider websites (Fig. 7, paragraphs [0041]-[0044]), as well as using audience profile data to target appropriate content (paragraphs [0022] and [0036]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Reisman to include a website where subscribers could register profiles. This would have produced predictable and desirable results, in that the users could receive information relevant to their interests.

Neither Reisman nor Wilson disclose **wherein the cable television service provider compares the information regarding the available videos with the video interest profiles; and wherein the cable television service provider sends emails to the subscribers containing information regarding the available videos which correspond to the video interest profiles.** However, in analogous art, Igarashi discloses that emails may be sent to customers based on search results in order to inform the customer of these results (Igarashi, paragraphs [0043] and [0046]). Therefore, it would have been obvious to one skilled in the art at the time of the invention to send an email notification of search results to customers This would have produced predictable and desirable results, in that customers could be updated as to new videos that match their preferences, as there is a greater chance that the customer would like the video, and the customer could therefore be more willing to purchase it.

Regarding claim 13, the combined teachings of Reisman, Wilson and Igarashi disclose **the system of claim 12,** and Reisman further discloses **wherein: the subscribers use the**

personal computers to transmit delivery requests to the content providers via the packet data network (paragraph [0599])**; in response to the requests, the cable television service provider receives the requested videos from the content providers and then delivers the requested videos to the televisions via the cable television network for the subscribers to view** (Fig. 8, paragraphs [0296] and [0599]-[0601])**.** Reisman does not disclose wherein the request relates to **videos identified in the emails.** However, in analogous art Igarashi discloses that emails may be sent to customers based on search results in order to inform the customer of these results (Igarashi, paragraph [0046]). Therefore, it would have been obvious to one skilled in the art at the time of the invention to send an email notification of search results to customers This would have produced predictable and desirable results, in that customers could be updated as to new videos that match their preferences, as there is a greater chance that the customer would like the video, and the customer could therefore be more willing to purchase it.

Regarding claim 14, Reisman discloses **the system of claim 1,** but does not disclose **wherein: the subscribers use the personal computers to register video interest profiles on the content provider websites.** However, in analogous art Wilson discloses cable television service provider websites (Fig. 7, paragraphs [0041]-[0044]), as well as using audience profile data to target appropriate content (paragraphs [0022] and [0036]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Reisman to include a website where subscribers could register profiles. This would have produced predictable and desirable results, in that the users could receive information relevant to their interests.

Neither Reisman nor Wilson disclose **wherein the content providers send emails to the subscribers regarding videos which correspond to the video interest profiles and which are available for delivery from the content providers to the subscribers.** However, in analogous art, Igarashi discloses that emails may be sent to customers based on search results in order to inform the customer of these results (Igarashi, paragraphs [0043] and [0046]). Therefore, it would have been obvious to one skilled in the art at the time of the invention to send an email notification of search results to customers This would have produced predictable and desirable results, in that customers could be updated as to new videos that match their preferences, as there is a greater chance that the customer would like the video, and the customer could therefore be more willing to purchase it.

Regarding claim 15, the combined teachings of Reisman, Wilson and Igarashi disclose **the system of claim 14,** and Reisman further discloses **wherein: the subscribers use the personal computers to transmit delivery requests to the content providers via the packet data network** (paragraph [0599])**; wherein in response to the requests, the cable television service provider receives the requested videos from the content providers and then delivers the requested videos to the televisions via the cable television network for the subscribers to view on the televisions** (Fig. 8, paragraphs [0296] and [0599]-[0601])**.** Reisman does not disclose wherein the request relates to **videos identified in the emails.** However, in analogous art Igarashi discloses that emails may be sent to customers based on search results in order to inform the customer of these results (Igarashi, paragraph [0046]). Therefore, it would have been obvious to one skilled in the art at the time of the invention to send an email notification of search results to customers This would have produced predictable and desirable results, in that

customers could be updated as to new videos that match their preferences, as there is a greater chance that the customer would like the video, and the customer could therefore be more willing to purchase it.

Claims 27-30 are similar to claims 12-15, respectively, except that they are dependent on the system of claim 16 rather than the system of claim 1. Therefore, claims 27-30 are rejected as applied to claim 12-15, respectively.

Claims 42-45 are similar to claims 12-15, respectively, except that they are dependent on the method of claim 31 rather than the system of claim 1. Therefore, claims 42-45 are rejected as applied to claim 12-15, respectively.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is (571)270-3755. The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Josh Taylor/
Examiner, Art Unit 2426

/VIVEK SRIVASTAVA/
Supervisory Patent Examiner, Art Unit 2426